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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,480	11/25/2003	Jeffrey Breslow	06181-062001	4363

26171 7590 08/11/2005

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MINNEAPOLIS, MN 55440-1022

EXAMINER
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CHIU, RALEIGH W

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 08/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/720,480	<b>Applicant(s)</b> BRESLOW ET AL.	
	<b>Examiner</b> Raleigh Chiu	<b>Art Unit</b> 3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 May 2005.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4,8-13 and 21-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23-28 is/are allowed.
- 6) ☒ Claim(s) 1-4,8-13,29,30 and 35-37 is/are rejected.
- 7) ☒ Claim(s) 21,22 and 31-34 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 1, 2, 4, 8-11, 13, 29, 35-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kolwicz (USPN 3,368,814) in view of Kelly (USPN 5,769,424), Dixon (USPN 5,031,919) and U.S. Patent Number 5,577,733 (Downing).

Regarding claims 1, 2, 8-11, 29, 35 and 37, Figure 1 of Kolwicz shows a base unit 1, target area 3 and launch area 2. Figure 1 further shows that a playing piece is inherently capable of being bounced into one of the target sections. Figures 2 and 4 show actuators 25 to indicate scoring but do not show an electronic controller. However, it would have been obvious to one of ordinary skill in the art to employ an electronic controller in combination with the Kolwicz targets in view of Kelly who teaches that it is old and well-known in the gaming art to monitor balls, targets and overall game play with electronic controllers. See Kelly's sensor 92 and microprocessor 132 at Figures 3a-4 and column 10, line 4 through column 12, line 48. Regarding the ball detecting system, Kelly discloses that the use of optical detectors as ball detectors is

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old and well-known in the gaming art. See column 7, lines 34-60. Although Kelly does not explicitly recite an optical detection system with a single emitter in combination with a plurality of optical detectors, because Downing teaches that these two types of detecting systems were art-recognized equivalents at the time of the invention in those applications where it is immaterial how the ball is detected as it passes through a target hole, one of ordinary skill in the art would have found it obvious to substitute one well-known optical detecting system for another. See Downing at Figure 3 and Figure 18.

Regarding claims 4, 13 and 36, Kolwicz discloses that his game can be played indoors or outdoors, and is applicable for home use as well as for commercial use but does not explicitly describe table-top use. See column 1, lines 21-27. However, it would have been obvious to one of ordinary skill in the art to size the Kolwicz game for table-top play in view of Dixon who teaches that it is old and well-known in the arcade game art to miniaturize traditional arcade games to allow for game portability and home use. See Dixon at column 1, lines 5-22 and 41-47.

With further regard to claim 29, base 15 of Kolwicz corresponds to the recited passage common to the target holes.

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3. Claims 3, 12 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kolwicz in view of Kelly, Dixon, Downing and Johns (USPN 2,926,915).

Regarding claims 3, 12 and 30, Johns shows in Figure 1 that targets 17,18 are well-known in the art can be formed as concentric, upstanding, circular walls. Because the Kolwicz and Johns targets were art-recognized equivalents at the time of the invention as ballgame targets, one of ordinary skill in the art would have found it obvious to substitute one well-known target for another.

#### ***Allowable Subject Matter***

4. Claims 21, 22 and 31-34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. Claims 23-28 are allowed.

#### ***Conclusion***

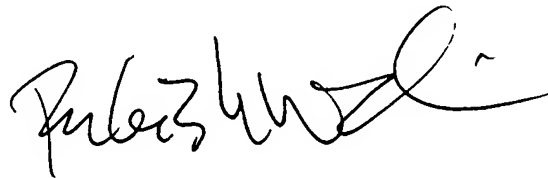
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raleigh Chiu whose telephone number is (571) 272-4408. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich, can be reached on (571) 272-4415.

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The fax number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Raleigh W. Chiu', with a stylized flourish at the end.

Raleigh W. Chiu  
Primary Examiner  
Technology Center 3700

RWC:dei:feif  
4 August 2005